

**Town of Jefferson, Schoharie County, New York Comprehensive Plan
2008**

APPENDIX D - Draft Junkyard Law

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§ 1 GENERAL PROVISIONS

Be it enacted by the Town Board of the Town of Jefferson, Schoharie County, New York as follows:

A. Title.

Town of Jefferson Junkyard Law; a local law establishing regulations governing the operation of junkyards in the Town of Jefferson.

B. Purpose.

The purpose of this law is, through the regulation of junkyards, to promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and persons; protect water resources; preserve the aesthetic qualities of the municipality; prevent depreciation of the property on which a junkyard is located and the property of other persons in the neighborhood and the community; and to further the goals of the comprehensive plan. This local law is adopted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.

C. Jurisdiction and Scope.

This chapter shall apply to all junkyards now existing or hereafter proposed in the Town of Jefferson. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense. The Code Enforcement Officer shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard.

The following land uses shall be exempt from the requirements of this Chapter provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:

- 1) Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
- 2) Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
- 3) Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers.

No right to establish or continue a junkyard operation shall be conveyed by the existence of a State license or the presence of any of the above activities on a site.

D. Severability.

Should any section of provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 2 DEFINITIONS

ENFORCEMENT OFFICER - The person(s) appointed by the Town Board to enforce the provisions of this law.

JUNKYARD - The term "junkyard" shall be interpreted and are hereby defined as follows:

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- 1) An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
- 2) Any place where more than two (2) old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of three (3) months or more. The Town of Jefferson Code Enforcement Officer(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Code Enforcement Officer's determination.

§ 3 License

No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Jefferson, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided.

A. Code Enforcement Officer

The Code Enforcement Officer of the Town of Jefferson shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to criteria contained herein and in the Town of Jefferson Rural Land Development Law. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement for failure to comply with these regulations.

- 1) No license shall be issued until the Code Enforcement Officer has received;
 - (a) A written application from the applicant on the form provided by the Town Code Enforcement Officer.
 - (b) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
- 2) The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law are met and provided the Town is so notified.
- 3) Any disapprovals shall be in writing and include the reasons therefore. The Code Enforcement Officer shall not issue a license in any instance where the Planning Board has not approved the site plan. If the application is disapproved, the applicant shall have the right to apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- 4) If the Code Enforcement Officer finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within fifteen (15) days after the service of such order. The Code Enforcement Officer shall, for purposes of determining compliance with this Law, be authorized to make periodic inspections of all junkyards and shall be provided entry to accomplish that task. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.

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- 5) If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within fifteen (15) days after the service of such order, the Code Enforcement Officer may suspend or revoke such license and the holder of the license shall thereupon terminate the operation of such junkyard.

B. Required License.

- 1) Any license which is not used for the purpose intended within two (2) years of the date of issuance shall automatically expire.
- 2) Junkyard owners shall be required to renew licenses every two years. Information required for renewal, however, shall be limited to ownership data, the number of vehicles stored on site, copies of State and other permits required and evidence regarding compliance with previously established conditions of site plan approval and/or license issuance. An inspection of the junkyard premises by the Town Code Enforcement Officer and/or other Town officials shall be made to ascertain compliance with these regulations and the license requirements as a condition of renewal. The Town Board shall establish fees for license renewals.

§ 4 STANDARDS

A. Standards Applicable to New Junkyards.

- 1) All new junkyards shall conform to the following standards:
 - (a) If a junkyard is to be located adjacent to a federal aid primary highway, it shall comply with all regulations of the Federal Highway Administration and the New York State Department of Transportation and provide evidence of the same to the Town of Jefferson.
 - (b) Junkyards shall be located no closer than five-hundred (500) feet to an existing public right-of-way or five-hundred (500) feet to any adjoining property. Junkyards must conform to subdivision 14 of General Municipal Law §136 which prohibits the establishment of motor vehicle junkyards where any part or yard of the junkyard is within (500) feet of "a church, school, hospital, public building or place of public assembly"
 - (c). Junkyards shall comply in all respects with the provisions of the Town of Jefferson Rural Land Development Law.
 - (d) All new junkyards must erect and maintain a eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law.
 - (e) No junkyard or portion of a junkyard shall be located on a slope exceeding twelve percent (12%) in grade or so situated on a bluff as to be unscreenable (visible from an adjacent public highway or residence located above or below the level of the junkyard).
- 2) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

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- 3) All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in improved parking areas specifically designated for this purpose.
 - 4) The Planning Board, in acting upon the application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136-7 and § 136-8 of the General Municipal Law.

B. Standards Applicable to Existing Junkyards.

All existing junkyards shall conform to the following standards:

- 1) Existing nonconforming junkyards shall, within a period of three (3) years following the effective date of this chapter shall be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below, excepting that existing junkyards with approved licenses and site plans shall have a period of five (5) years to fully implement such plans provided a specific schedule for the same has been approved by the Planning Board and met by the applicant.
- 2) Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this chapter.
- 3) Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan prepared by a Professional Engineer depicting the existing operation and any planned improvements as may be required by this chapter.
- 4) The plan shall comply with the requirements applicable to new junkyards to the maximum extent practical and shall include provisions for screening of the view of the junkyard from adjacent property as well as the public highway. A six (6) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals shall be required unless physical circumstances would make such fencing wholly impractical.
- 5) All fencing must be approved by the Town of Jefferson Planning Board and produce a screen through which one generally cannot see and children cannot enter. Dense evergreen screening shall be preferred and may be required in combination with other fencing. The Town Board shall be responsible for taking measures, including securing injunctive relief, to ensure maintenance of such fencing or screening.
- 6) The license application and site plan for the existing non-conforming junkyard shall be processed in a manner identical to that for land development/site plan applications under the Town of Jefferson Rural Land Development Law and shall include other information as may be required to determine compliance with this chapter. The Planning Board, in acting upon the application, shall consider the following:
 - (a) The impacts of the use on the enjoyment and use of adjoining properties as well as the community as a whole.
 - (b) The degree to which the use can economically be made to comply with requirements for new junkyards.

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- (c) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - (d) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this purpose.
- 7) Existing junkyards which are made to comply with the above requirements, continue to meet all licensing standards and for which the owners have implemented approved site plans may be expanded within the bounds of the existing parcels on which they are located but not onto new properties unless the requirements applicable to new junkyards are fully met, and in no case will any change in an existing junkyard which would lessen its conformity with these regulations or with approved site plans be permitted. The Town Board may also waive license renewal fees for owners of existing junkyards who offer specific evidence of progress in the implementation of approved site plans and meeting of the regulations contained herein.
- 8) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

C. Variation of Standards.

Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Planning Board and/or Code Enforcement Officer in order to accommodate unusual site conditions.

§ 5 SITE PLANS, NOTIFICATIONS, AND FEES

A. Site Plans

Any person or persons proposing to establish or expand a junkyard in the Town of Jefferson shall prepare site plans of the same to be submitted to the Planning Board under the land development/site plan review procedures of the Rural Land Development Law. Plans shall be prepared by a professional engineer at a scale of one (1) inch equals one-hundred (100) feet or larger. They shall be in sufficient detail to document compliance in every respect with the standards of this chapter.

B. Notifications

Existing junkyards shall be identified and notified of any non-conformities with this chapter within sixty (60) days of the effective date of this chapter. The Town of Jefferson Code Enforcement Officer shall be responsible for this procedure and shall, additionally, inform all owners of existing non-conforming junkyards of the action which must be taken to comply with this chapter, the time available to take those actions and the consequences of violations.

C. Fees

The Town Board may establish and, from time to time, revise a fee schedule for junkyard plan submissions.

§ 6 PENALTIES FOR OFFENSES

Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of an offense against this chapter and subject to a fine of not more than five-hundred (\$500) dollars. Each day of continued

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violation after notice thereof shall constitute a separate and distinct violation. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this chapter.